

### REMARKS

The Examiner is thanked for the indication of allowable subject matter in claims 20 and 23.

The Examiner is also thanked for his time and courtesy in an Examiner-initiated telephone discussion of the case on February 11, 2004. In that discussion, the claim amendments directed toward the annular lumen and the cavity, as presented in the reply filed September 9, 2003, were discussed. The Examiner is further thanked for his time and courtesy in an applicant-initiated telephone discussion on March 17, 2004, a summary of which is included below.

Claims 1-26 were examined. No claims have been amended, cancelled, or added. Accordingly, claims 1-26 are presented again for consideration. Independent claims 1, 12, and 26 are directed to methods of treating tissue.

Claims 1-19, 21, 22, and 24-26 stand rejected under 35 U.S.C. § 103(a) as being obvious over Eggers (6,066,134) in view of Curley (6,328,735) and further in view of Underwood (6,264,651). Applicant respectfully traverses the rejection.

Regarding the rejection of claims 12 and 26, the Examiner states that Eggers "disclose[s] an embodiment wherein the aspiration lumen is formed as an annular lumen (54) or annular gap, see col. 17, lines 41-54, col. 19, lines 28-41 and figure 9" (at page 3). Applicant disagrees. Claims 12 and 26 recite "aspirating the irrigating solution through an annular lumen in the probe." Eggers does not describe or suggest aspirating through annular gap 54. Rather, Eggers describes using annular gap 54 to provide irrigating solution to the distal end of a probe (col. 19, lines 42-45).

Regarding the rejection of claim 1, the Examiner asserts that Underwood discloses an aspiration electrode 160 that "is disposed in the cavity," as recited in claim 1, and that Underwood can be combined with Eggers and Curley (Office Action at 4-5). Applicant disagrees for at least the reason that the combination does not disclose or suggest "supplying thermal energy to the electrode so as to treat the tissue whereby the warmed irrigating solution inhibits undesirable heating below the surface of the tissue," as recited in claim 1. Rather, aspiration electrode 160 of Underwood, which the Examiner equates with the claimed electrode, is recessed in a cavity and ablates "fragments" (col. 21, lines 42-46) that

Applicant : Mark D. Markel  
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have already been removed from the patient's tissue surface and are being aspirated. Underwood ablates the fragments to inhibit clogging of probe 20 (col. 20, line 66 – col. 21, line 2; and col. 5, lines 11-20). Underwood is not concerned with inhibiting heating, from aspiration electrode 160, below the surface from which the fragments have already been removed.

Applicant also discussed with the Examiner the "body temperature" and "substantially fill" recitations during the March 17, 2004, telephone discussion.

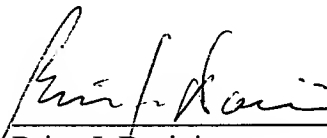
Applicant also notes that the Examiner's rejection does not address dependent claims 24 and 25.

Applicant has submitted IDSs on February 25, 2002 and September 9, 2003. For each of these IDSs, Applicant respectfully requests that the Examiner consider the references submitted in the IDS, initial the references on the PTO-Form 1449 (4 pages from February 25, 2002, and 12 pages from September 9, 2003), and return the initialed pages to Applicant.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: APRIL 8, 2004

  
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Brian J. Dorini  
Reg. No. 43,594

Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500  
Telephone: (202) 783-5070  
Facsimile: (202) 783-2331